

October 12, 2007

RE: Steven Hughes v. Department of Transportation (DOT)  
Allocation Review No. ALLO-06-029

Dear Mr. Hughes:

The Director's review of DOT's allocation determination of your position has been completed. The review was based on written documentation and on information provided during the October 2, 2007, Director's review meeting. Present at the Director's review meeting were you; your co-workers, Mark Ensley and Jason Greer; Rob Molohon, State Materials Documentation Engineer; Tom Baker, State Materials Engineer; and Niki Pavlicek, Classification and Compensation Manager for DOT.

**Background**

You requested a reallocation of your Transportation Engineer (TE) 2 position to the Transportation Engineer (TE) 3 classification by submitting a Classification Questionnaire (CQ) to DOT's Human Resources office on June 23, 2005. By letter dated September 21, 2006, DOT determined that your position was properly allocated and denied your request. On October 17, 2006, you requested a Director's review of DOT's determination.

During the Director's review meeting, you provided copies of DOT's Job Competencies for the TE 2 and 3 classifications. You clarified that you received the competencies a couple months prior and that they were not in place at the time of your request for review. While I accepted the documents into the record, I noted that they were not relevant to the time period under review and that I would give them the appropriate weight.

**Summary of Mr. Hughes' Perspective**

You argue that you function as the staff specialist responsible for the reliability of the contents of the Qualified Product List (QPL) which is used statewide by DOT and by local agencies such as cities and counties. You assert that you must have a thorough knowledge of DOT policies and standards and that you must be constantly aware of changes to the standards that govern the approval and acceptance of products on the QPL. You also assert that you represent DOT when consulting with product manufacturers and that you educate and inform manufacturers of the proper application procedures, of the process for submittal of products for evaluation, and about

the standards for evaluation of their products. You review submittals from manufacturers for completeness, and if the submittal is incomplete, you contact the manufacturer and advise the manufacturer of what they need to provide. You contend that you consult with Subject Matter Experts (SMEs) regarding the requirements and standards for evaluation and testing of products and then you determine whether the product is approved for listing on the QPL. You also contend that you determine whether a product approval method needs to be changed and whether a product can continue to be listed on the QPL. You argue that as the subject matter expert for the QPL, you are the first point of contact for DOT engineers and field personnel, manufacturers, contractors, inspectors, consultants and local agency staff; you provide direction to staff; provide information to local agencies; and train new inspectors and engineers in the use of the QPL.

You assert that you are a staff specialist and a subject matter expert and that your duties and responsibilities are described by the TE 3 classification.

### **Summary of DOT's Reasoning**

DOT acknowledges that you do some higher level work, but argues that the majority of your work is not at the higher level. DOT argues that the majority of your work is accomplished by utilizing standard engineering techniques consistent with the TE 2 level. DOT asserts that the advanced engineering work required for QPL is performed by the SME's with whom you consult. In DOT's allocation determination letter, DOT asserted that you compare submittals to a prescribed set of agency documents and if the submittals meet the criteria, you have the responsibility to accept them. DOT stated that you do not have authority to make judgments in selecting and adapting techniques to solve transportation problems as described at the TE 3 level. DOT asserts that your responsibilities and assignments fit within the TE 2 classification.

### **Director's Determination**

As the Director's designee, I carefully reviewed all of the documentation in the file and the information provided during the Director's review meeting. Based on my review of the documents, the information provided during the Director's review meeting, the available classifications, and my analysis of your assigned duties and responsibilities, I conclude that your position should be reallocated to the TE 3 classification.

### **Rationale for Determination**

The purpose of a position review is to determine which classification best describes the overall duties and responsibilities of a position. A position review is neither a measurement of the volume of work performed, nor an evaluation of the expertise with which that work is performed. A position review is a comparison of the duties and responsibilities of a particular position to the available classification specifications. This review results in a determination of the class that best describes the overall duties and responsibilities of the position. See Liddle-Stamper v. Washington State University, PAB Case No. 3722-A2 (1994).

Your position is located in the Environmental and Engineering Programs Division Materials Laboratory. Your position is the statewide technical specialist for the QPL. The QPL is the list of products that met DOT specifications, have undergone testing and evaluation for satisfactory performance and have been approved for use on construction projects. You are responsible for maintaining and updating the QPL, including determining what information is included in the QPL.

In summary, based on the information in your CQ, your duties include:

65% Based on DOT standards and in adherence to the DOT and Federal Highway Administration (FHWA) stewardship agreement, independently determining acceptability and approval of construction materials impacting DOT and local agency construction projects.

Managing the computer-based systems necessary to track and record construction material information.

Serving as liaison between manufacturers' representatives and DOT SME's in directing appropriate routes in the evaluation of new or existing construction materials.

Corresponding and working with SME's in determining appropriate approval and acceptance criteria for construction materials for adherence to the stewardship agreement.

Exercising considerable independence of action and judgment in making decisions.

30% Assisting other engineers and project personnel in areas such as addressing concerns with specifications that are in conflict with the Construction Manual, approval and acceptance methods, clarification of methods of testing, preparation of documentation, preparation of Record of Material, and performance of compliance reviews.

The definition for the TE 2 classification states: "[p]erforms transportation engineering work under general supervision."

The Glossary of Terms found in the Department of Personnel Classification Pay Administrative Guide defines "general supervision" as: "Recurring assignments are carried out within established guidelines without specific instructions. Deviation from normal policies, procedures and work methods requires supervisory approval, and supervisory guidance is provided in new or unusual situations. Employees work is periodically reviewed to verify compliance with policies and procedures." Your position does not fit within the general supervision definition. You work independently and are responsible for devising your own work methods. As a result, your position does not fit within the definition of the TE 2 classification.

The distinguishing characteristics for TE 2 state:

Work at this level is characterized by the independent application of standard engineering procedures and techniques to accomplish a wide variety of work in the office, laboratory, and/or field. Incumbents generally serve as full production staff or crew leaders. Work is assigned through general instructions and the setting of deadlines by a supervisor who engages in ongoing spot-check review, provides assistance when problems are encountered and reviews completed work. This role may include the leadership of technical support staff and entry level engineers such that incumbents are called upon to direct and train staff.

You are responsible for independently applying the standards for materials included in the QPL. You are also independently responsible for determining, in conjunction with the SME, the criteria to apply for acceptance and approval of non-standard and new materials. Approximately

25 percent of your assignments involve non-standard materials. The non-standard materials require more complex work and more time for processing and may require referral to the new products committee. This is higher level work than applying the established standards for materials. While it is difficult to place a percentage on the amount of time you spend on this higher level work, during the Director's review it was apparent that setting the acceptance criteria and approval of non-standard materials requires more time than acceptance and approval of standard materials. The TE 2 classification does not encompass your higher level responsibilities.

The typical work statements for the TE 2 classification provide guidance on the level of work, scope of responsibility and complexity of work performed at this level. The work you do occurs prior to plans or projects being submitted to DOT for approval. Your work is not directly referenced in the typical work for this class. However, statement that best describes your work actually describes positions that review standard specifications at the district level rather than positions with statewide technical responsibilities. For example, preliminary engineering positions at this level conduct "in-depth District-level review of standard contract plans, specifications and estimates; reviews PS&E work done by consultants; coordinates review by specialists throughout the District; acts as liaison between District and Headquarters final reviewers; participates in writing specifications and special provisions; participates in preparing plans for District-level contracts." Your position has state-wide responsibility and conducts reviews of standard materials for the QPL as well as non-standard and new materials for which no standards have been established. You work with SMEs to establish criteria for acceptance and approval of new or non-standard materials. The state-wide scope of your duties and responsibilities is broader than the typical duties and responsibilities described at the TE 2 level.

The definition for the TE 3 classification states "[p]erforms advance transportation engineering work under limited supervision."

Your position works under limited supervision. You work independently and are responsible for devising your own work methods. Your position fits within the level of supervision addressed in the definition of the TE 3 classification.

The distinguishing characteristics for TE 3 state:

At this level, incumbents are generally placed in charge of a major project or functional area which is characterized by supervising several support staff (staff may include or consist of contracted consultants) or serve as a staff specialist in a complex area of limited scope (this may include serving as a staff specialist consultant to Local Agencies). Incumbents are expected to possess a thorough working knowledge of agency policies, standards and procedures as well as engineering principles, methods and practices. Assignments require judgments in selecting and adapting techniques to solve transportation problems. Incumbents may represent the Department at public meetings, open houses, to local agencies, contractors, consultants, etc., for specific projects. While work is occasionally spot-checked and reviewed upon completion, incumbents are responsible for planning and carrying out projects with only minimal supervision. Staff at this level are often called on to assign, train and evaluate engineers and technicians.

The typical work statements for the TE 3 classification provide guidance on the level of work, scope of responsibility and complexity of work performed at this level. In part, the typical work encompasses positions that function as specialists or are responsible for complex technical areas or projects.

The Glossary of Terms found in the Department of Personnel Classification and Pay Administrative Guide defines the duties of a "specialist" as involving "intensive application of knowledge and skills in a specific segment of an occupational area." As the state-wide staff specialist for the QPL, you apply specialized knowledge in the performance of your duties and responsibilities.

The Glossary of Terms found in the Department of Personnel Classification and Pay Administrative Guide defines "complex" as requiring "the use of a wide variety of rules, processes, materials, or equipment that require an application of specialized knowledge or skills. Decisions must be made independently regarding which rules, processes, materials or equipment to use in order to effectively accomplish work assignments." Your work with non-standard materials can be complex and with the evolution of water quality and environmental concerns, the complexity of your work has increased. You employ a thorough working knowledge of agency policies, standards and procedures but you rely on SMEs for their knowledge of engineering principles. You make judgments and decisions in selecting criteria to apply to standard materials and you resolve problems pertaining to the acceptance and approval of non-standard materials. With the assistance of the SME, you set the QPL specifications for non-standard materials. Your duties require the application of specialized knowledge, the use of a variety of standards, policies and rules, including knowledge of the DOT/FHWA stewardship agreement, and you make independent decisions regarding application of the standards in order to effectively accomplish your work assignments.

You are also the point of contact for DOT staff, manufacturers, and local agencies for the QPL and you represent DOT to local agencies, contractors, and manufacturers. In addition, you plan and carry out your work with minimal supervision.

The distinguishing characteristics and typical work of TE 3 classification reflect your work as a specialist, the complexity of your work and the level of independent decision-making you exercise.

In Salsberry v. Washington State Parks and Recreation Commission, PRB Case No. R-ALLO-06-013 (2007), the Personnel Resources Board addressed the concept of best fit. The Board referenced Allegri v. Washington State University, PAB Case No. ALLO-96-0026 (1998), in which the Personnel Appeals Board noted that while the appellant's duties and responsibilities did not encompass the full breadth of the duties and responsibilities described by the classification to which his position was allocated, on a best fit basis, the classification best described the level, scope and diversity of the overall duties and responsibilities of his position.

Overall, the level and scope of your duties and responsibilities best fit the within the definition and distinguishing characteristics of the TE 3 classification. Your position should be reallocated.

**Appeal Rights**

WAC 357-49-018 provides that either party may appeal the results of the Director's review to the Personnel Resources Board by filing written exceptions to the Directors' determination in accordance with Chapter 357-52 WAC.

WAC 357-52-015 states that an appeal must be received in writing at the office of the Board within thirty (30) calendar days after service of the Directors' determination. The address for the Personnel Resources Board is 2828 Capitol Blvd., P.O. Box 40911, Olympia, Washington, 98504-0911.

If no further action is taken, the Director's determination becomes final.

Sincerely,

Holly Platz, SPHR  
Director's Review Investigator

cc: Niki Pavlicek, DOT  
Lisa Skriletz, DOP